

PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

To:

PHILLIPS ORMONDE & FITZPATRICK
367 Collins Street
MELBOURNE VIC 3000

Date of mailing (day/month/year) **1 6 FEB 2004**

Applicant's or agent's file reference
711249

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/AU2004/000004

International filing date (day/month/year)
6 January 2004

Priority date (day/month/year)
7 January 2003

International Patent Classification (IPC) or both national classification and IPC
Int. Cl. ⁷ B65D 39/00; B67B 1/03

Applicant

PROCORK PTY LTD et al

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability, citations and explanations supporting such statement
- ☒ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

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Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
☐ a sequence listing
☐ table(s) related to the sequence listing
 - b. format of material
☐ in written format
☐ in computer readable form
 - c. time of filing/furnishing
☐ contained in the international application as filed.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V **Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Claims 2, 4, 5, 9, 10, 13-34, 40, 42-44, 47-52	YES
	Claims 1, 3, 6-8, 11, 12, 35-39, 41, 45, 46	NO
Inventive step (IS)	Claims	YES
	Claims 1-52	NO
Industrial applicability (IA)	Claims 1-52	YES
	Claims	NO

2. Citations and explanations:

NOVELTY (N): Claims 1, 3, 6-8, 11, 12, 35-39, 41, 45, 46

- (a) EP 294127: Claims 1, 3, 6-8, 11, 12, 35, 45, 46 (from drawings in the citation, uneven shape is depression 7)
- (b) JP 3270928: Claims 1, 3, 6-8, 11, 12, 35, 45, 46 (uneven shape is hollow part between legs)
- (c) EP 204486: Claims 1, 3, 6-8, 11, 12, 35, 45, 46 (uneven shape is hollow part between legs)
- (d) US 4615460: Claims 36-39, 41, 45, 46 (stopper in citation is made of foam and covered with a film)

Hence each of the citations above disclose all the features of each of the claims listed alongside.

INVENTIVE STEP (IS): Claims 1-52

Claims 1, 3, 6-8, 11, 12, 35-39, 41, 45, 46: as above

- (e) AU 24550/77: figures disclose stepped end
- (f) FR 2381675: figures disclose corrugations/sawtooth
- (g) DE 3521865: figures disclose slots, channels etc
- (h) EP 046922: page 3, lines 20-23 discloses adhesion between stopper and film
- (i) GB 420628: page 4, lines 105-116; page 5, lines 16-20, 113-120, disclose adhesion between stopper and film
- (j) US 4312824: column 3, lines 49-61, discloses pressing and shaping protrusions etc by a cold plate

Please note that citation (b) also discloses hot pressing of stopper and film in figures 1 and 2; citation (d) also discloses a filmed stopper with a plain end.

Continued in Supplemental Box

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Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

Continuation of: Box V

The following claims lack an inventive step when combined as given below, such combination being obvious to the person skilled in the art (PSA):

(1) Any one of the citations (a)-(c) can be combined with citation (e) for Claims 20-29,32,40,42-44; with citation (f) for Claims 2,4,13,18,19; with citation (g) for Claims 5,9,10,14-17; with either citations (h), (i) for Claims 33, 34; with citation (j) for Claims 30, 31.

(2) Citation (d) can be combined with citation (e) for Claims 40, 42-44; with citation (b) and citation (j) for Claims 47-52

Please refer to Box VI for the 'P' document.

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Box No. VI Certain documents cited

1. Certain published documents (Rules 43bis.1 and 70.10)

<u>Application No. Patent No.</u>	<u>Publication date (day/month/year)</u>	<u>Filing date (day/month/year)</u>	<u>Priority date (valid claim) (day/month/year)</u>
(Y) WO 2003/074379	12 September 2003	6 March 2003	6 March 2002

Claims 33, 34 each lack an inventive step when the above citation is combined with any one of the citations (a)-(c)

2. Non-written disclosures (Rules 43bis.1 and 70.9)

Kind of non-written disclosure

Date of non-written disclosure
(day/month/year)

Date of written disclosure
referring to non-written disclosure
(day/month/year)

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claim 1 is not clear because I cannot understand what is meant by 'axially facing' surface.